

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 11, 2013

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

COSME UMBERTO VILLA-IRIBE,

Defendant - Appellant.

No. 13-4148
(D.C. No. 1:10-CR-00159-DB-2)

ORDER

Before **BRISCOE**, Chief Judge, **GORSUCH** and **BACHARACH**, Circuit Judges.

Defendant, proceeding *pro se*, appeals the judgment entered in his criminal case by the district court on November 29, 2011. Defendant filed his notice of appeal on October 7, 2013.

In a criminal case, a defendant's notice of appeal must be filed in the district court within 14 days after entry of the judgment. Fed. R. App. P. 4(b)(1)(A). The timely filing of a notice of appeal by the defendant is an inflexible claim-processing rule that may be forfeited if not properly raised by the government. *United States v. Garduño*, 506 F.3d 1287, 1290-91 (10th Cir. 2007). However, because Rule 4(b) implicates important judicial interests beyond those of the parties, the court may raise the time bar *sua sponte* in certain circumstances. *United States v. Mitchell*, 518 F.3d 740, 750 (10th Cir 2008).

This power is limited and should not be invoked unless judicial resources and administration are implicated and the delay has been inordinate. *Id.*

Under the circumstances of this case, dismissal of this appeal as untimely is appropriate. Defendant's notice of appeal, filed nearly one year and eleven months after judgment was entered, was inordinately late. Appeal dismissed.

A copy of this order shall stand as and for the mandate of the court.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Counsel to the Clerk